

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY
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JONATHAN BANYAN,

Plaintiff,

-against-

POLICE OFFICER CRAIG SIKORSKI,
et al.,

Defendants.

17cv04942 (LTS) (DF)

ORDER

DEBRA FREEMAN, United States Magistrate Judge:

Currently before this Court is a letter motion by Defendants (Letter to the Court from Nicolette Pellegrino, Esq., dated Sept. 20, 2019 (“Def. Mtn.”) (Dkt. 135)), seeking leave of Court to send to Plaintiff a revised Authorization for Release of Health Information Pursuant To HIPAA (Dkt. 135-1) (the “Proposed Release”). For the reasons set forth below, Defendants’ motion is granted in part and denied in part.

In a discovery conference with the parties held on May 16, 2019, this Court instructed Plaintiff to execute certain HIPAA releases that he had received from Defendants, with certain limiting parameters set by the Court. (Transcript of conference, held on May 16, 2019 (Dkt. 130), at 24-27.) One of those releases was for Plaintiff’s records from St. Luke’s-Roosevelt Hospital Center (“St. Luke’s-Roosevelt”), which appeared to be the custodian of a Pre-Hospital Care Report related to Plaintiff’s medical treatment on March 20, 2016 (*id.* at 3-4, 7-8), the date on which Plaintiff claims that he was the victim of excessive force by Defendants (*see* Complaint Under the Civil Rights Act, 42 U.S.C. Section 1983, dated June 29, 2017 (Dkt. 2)). This Court, however, instructed Defendants not to send any additional releases to Plaintiff. (*Id.*)

In Defendants' letter motion, they assert that St. Luke's-Roosevelt, at some point, divided into two entities, and that the health provider (now known as Mount Sinai West) that is maintaining Plaintiff's March 20, 2016 Pre-Hospital Care Report rejected the May 2019 release executed by Plaintiff. (Def. Mtn., at 1-2.) According to Defendants, this release was rejected because the name on the release (which was addressed to St. Luke's-Roosevelt) was no longer correct. (*Id.*) Defendants therefore request that they be permitted to send the Proposed Release to Plaintiff with a corrected name and address, in order to obtain the Pre-Hospital Care Report from the provider. (*Id.* at 2.) Defendants also request that the Court order Plaintiff to execute Section 9(b) of the Proposed Release, which would authorize Mount Sinai West to discuss Plaintiff's health information with the New York City Law Department. (*Id.*) Defendants assert that they intend to use this release to speak with the EMTs who treated Plaintiff on March 20, 2016. (*Id.*)

As the original HIPAA release, addressed to St. Luke's-Roosevelt, appears to have been rejected not through any fault of the Defendants, but due to circumstances beyond Defendants' control, this Court finds that Defendants' request for leave to send Plaintiff a revised release is a reasonable one. Defendants, however, have failed to offer good reasons why Plaintiff should be required to authorize his providers not only to provide his records, but also to discuss his health information with Defendants. It is unclear to this Court why such discussions would be necessary or why the Report would not be independently sufficient to provide Defendants with the information they seek. Defendants assert no legal arguments and cite to no authority to the contrary.

In light of the foregoing, it is hereby ORDERED that:

1. Defendants may send the Proposed Release to Plaintiff;
2. Upon receipt, Plaintiff is directed to execute and return the Proposed Release to counsel for Defendants. Plaintiff, however, shall not be required to initial Section 9(b) of the proposed Release.

In light of this ruling, the Clerk of Court is directed to close Dkt. 135 on the Docket of this action.

Dated: New York, New York
November 25, 2019

SO ORDERED



DEBRA FREEMAN
United States Magistrate Judge

Copies to:

Mr. Jonathan Banyan
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Defendants' counsel (via ECF)